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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL BLAKE DeFRANCE,

Defendant.

CR 21-29-M-DLC

**DEFENDANT DeFRANCE'S
BRIEF IN SUPPORT OF
UNOPPOSED MOTION TO
CONTINUE TRIAL AND TRIAL
BRIEF DEADLINE AND SET
SCHEDULING CONFERENCE**

INTRODUCTION

Mr. DeFrance has moved the Court to continue the trial date and trial brief deadline and to set a scheduling conference. This brief supports that motion.

LEGAL AUTHORITY GOVERNING A CONTINUANCE MOTION

In the Ninth Circuit a request to continue a criminal trial is most often resolved by consideration of four factors: Diligence, Usefulness, Inconvenience and

Prejudice. *See e.g., Armant v. Marquez*, 772 F.2d 552, 557 (9th Cir. 1985). We address these points briefly.

Diligence

The parties have been diligent throughout the pretrial phase of this case. Motions were timely filed, and the Court set a prompt hearing. Presently, Mr. DeFrance's trial conflicts with another scheduled trial. Some additional time for preparation of Mr. DeFrance's trial brief is also necessary.

Usefulness

The continuance will be particularly useful because of the previously described conflict with this Court's concurrently scheduled jury trial in *United States v. Tara Ann Gallagher*, CR 21-43-M-DLC.

Inconvenience

Although interruption of the Court's schedule is not something done without careful consideration, it does not appear in this instance that any inconvenience will be suffered by the parties or the Court.

Prejudice

Mr. DeFrance only seeks to complete effective pretrial preparation and avoid a logistical conflict. It would be prejudicial to Mr. DeFrance for the Court not to reschedule trial and grant additional time for preparation of trial briefs.

CONCLUSION

WHEREFORE, the defense prays the continuance of trial and the trial brief deadline will be granted and that the Court will set a scheduling conference.

RESPECTFULLY SUBMITTED this 27th day of May, 2022.

/s/ Michael Donahoe
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CERTIFICATE OF COMPLIANCE

I hereby certify that this Brief is in compliance with Local Rule 47.2. The brief's line spacing is double-spaced, and is proportionately spaced, with a 14-point font size and contains less than 6,500 words. (Total number of words: 247, excluding tables and certificates).

RESPECTFULLY SUBMITTED this 27th day of May, 2022.

/s/ Michael Donahoe
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CERTIFICATE OF SERVICE
L.R. 5.2(b)

I hereby certify that on May 27, 2022, a copy of the foregoing document was served on the following persons by the following means:

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